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### QUESTION PRESENTED

Whether the court of appeals properly affirmed the district court's ruling that it lacked subject matter jurisdiction over petitioner James L. Martin's suit challenging the District of Columbia Court of Appeals' determination that he should not be issued a license to practice law.

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IN THE  
**Supreme Court of the United States**

OCTOBER TERM, 1992

\_\_\_\_\_  
 No. 92-5584  
 \_\_\_\_\_

JAMES L. MARTIN,

*Petitioner,*

v.

DISTRICT OF COLUMBIA COURT OF APPEALS, HON. JOHN A. TERRY, HON. JAMES A. BELSON, HON. JUDITH W. ROGERS, DISTRICT OF COLUMBIA COURT OF APPEALS ADMISSIONS COMMITTEE, HON. CATHERINE KELLY, JAMES F. WALKER, JOHN RISHER, CAROL G. FREEMAN, ROBERT ELLIOTT, PATRICIA WYNN, and NATIONAL CONFERENCE OF BAR EXAMINERS,

*Respondents.*

\_\_\_\_\_  
 On Petition for Writ of Certiorari to the  
 United States Court of Appeals  
 for the District of Columbia Circuit

\_\_\_\_\_  
 BRIEF FOR THE NATIONAL CONFERENCE  
 OF BAR EXAMINERS IN OPPOSITION

\_\_\_\_\_  
**STATEMENT**

Petitioner James L. Martin ("Martin") filed this suit on or about October 11, 1989, in the District Court

for the District of Columbia against the National Conference of Bar Examiners ("National Conference") as well as the District of Columbia Court of Appeals, the District of Columbia Court of Appeals Admissions Committee, and various individual judges and members of the Admissions Committee (collectively referred to as the District of Columbia respondents). Martin asserted eight claims arising out of the court of appeals' determination that Martin did not demonstrate his good moral character and fitness to practice law.

The National Conference moved to dismiss all eight of Martin's claims against it on the ground that the court lacked subject matter jurisdiction over the suit, as well as on several other grounds. The National Conference moved in the alternative for judgment on the pleadings or for summary judgment.

On October 11, 1991, the district court dismissed the entire case for lack of subject matter jurisdiction. Martin appealed to the United States Court of Appeals for the District of Columbia Circuit, requesting summary reversal. Martin argued that since the district court's order was entered, Congress had passed the Civil Rights Act of 1991, P.L. 102-166, which he claimed provided him a cause of action for compensatory and punitive damages under new 42 U.S.C. § 1981(d) for intentional employment discrimination in violation of the Americans with Disabilities Act, 42 U.S.C. § 12117.

The National Conference and the District of Columbia respondents moved for summary affirmance. On May 8, 1992, the Court of Appeals for the District of Columbia Circuit issued a summary affirmance of the district court's order. Martin then petitioned this Court for certiorari.

## ARGUMENT

### I. THE COURT OF APPEALS' AFFIRMANCE OF THE DISTRICT COURT'S RULING THAT IT HAD NO SUBJECT MATTER JURISDICTION OVER MARTIN'S CLAIMS WAS MANDATED BY THIS COURT'S DECISION IN *DISTRICT OF COLUMBIA COURT OF APPEALS v. FELDMAN*.

In *District of Columbia Court of Appeals v. Feldman*, 460 U.S. 462 (1983), this Court established that federal district courts do not have jurisdiction to review state court decisions denying an individual applicant's admission to the bar. This rule extends to all constitutional and statutory claims which are "inextricably intertwined with the state court's denial in a judicial proceeding of a particular plaintiff's application for admission to the state's bar." *Id.* at 482-83 n.16. Martin's injection into this case of claims under the Civil Rights Act of 1991 and the Americans with Disabilities Act does nothing to alter the rule. Regardless of the source of the alleged causes of action, the district court has no jurisdiction to review denials of applications for bar admission.

### II. THE DOCTRINES OF RES JUDICATA AND COLLATERAL ESTOPPEL BAR MARTIN'S CLAIMS AGAINST THE NATIONAL CONFERENCE.

Martin's claims against the National Conference in this action are identical to those Martin made in another case filed in federal district court in Richmond, Virginia. Both sets of claims stem from the character survey which the National Conference prepared on behalf of various state bar examining authorities. As documented in the record in this case, that case was dismissed by Judge Merhige, United States District Judge for the Eastern District of Virginia, on August 16, 1988. The United States Court of Appeals for the Fourth Circuit affirmed that dismissal on March 9, 1989, and this Court denied certiorari on June 19, 1989. Res Judicata and collateral estoppel bar

Martin from relitigating claims or issues which already have been or could have been, raised in that earlier litigation. See *Allen v. McCurry*, 449 U.S. 90 (1980).

#### CONCLUSION

Martin has failed to articulate any basis for issuance of certiorari in this case. The court of appeals summary affirmance of the district court's order was proper. Martin's claims must fail either because the district court had no jurisdiction over them, or they are barred by res judicata and collateral estoppel. The petition for writ of certiorari should be denied.

Respectfully submitted,

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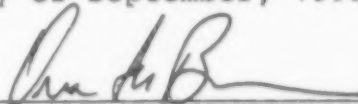
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Bar Examiners*



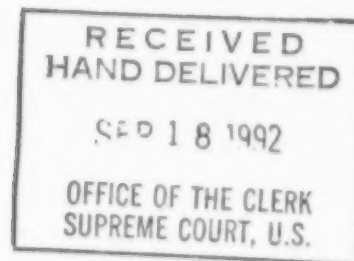
92-5584

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing has been served upon Plaintiff, James L. Martin, pro se, 912 McCabe Avenue, Wilmington, Delaware 19802, and upon Mary Wilson, Esquire, Assistant Corporation Counsel, Office of the Corporation Counsel, Room 305, The District Building, 1350 Pennsylvania Avenue, N.W., Washington, D.C., 20004, by first-class mail, postage prepaid, on this 18th day of September, 1992.



Orran Lee Brown



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